



**Periodic Review / Retain Regulation
Agency Background Document**

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) citation	16 VAC 15-50
Regulation title	Regulations Governing the Employment of Minors on Farms, In Gardens, and in Orchards
Document preparation date	October 4, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The legal authority for this regulation is the Code of Virginia, at §§ 40.1-6, 40.1-100. A. 9, and 40.1-114. Pursuant to the requirements of these code sections, the Commissioner of Labor and Industry has the authority and duty to regulate children working in agriculture.

While the regulation is not mandated, the legislative intent of the 1991 revision of the child labor laws applicable to minors employed in agriculture was that certain hazardous occupations would be prohibited occupations for these minors. Also, it was intended that Virginia's child labor laws and regulations in this areas would be similar to the federal laws and regulations.

The occupations that are prohibited are not enumerated in the Code of Virginia. Therefore, one of the regulation's primary purposes is to clearly identify these hazardous occupations for minors employed in agricultural occupations.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such

alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

One alternative is to not regulate child labor on farms. A second alternative is to promulgate voluntary, rather than mandatory, guidelines for employers. Both alternatives are inadequate to protect minors working for farm employers. Without enforcement accountability, many employers, under the pressure of their duties, would fail to give attention to safety measures. This regulation is thus the least burdensome alternative to ensure that minor age children are protected while employed in agricultural occupations on farms, in gardens and in orchards.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

There were no comments during the Public Comment Period. The agency did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation is needed to protect the health, safety, and welfare of minors in Virginia by prohibiting the employment of minors in hazardous agricultural occupations. Employment of youths is widely accepted and is increasing because more minors are starting to work at a younger age and are working more hours. Many agricultural employers use minors as a cost-efficient means of supplementing an adult workforce. Under the stress and pressure of operating a business and surviving economically, many employers forget that minors do not have the maturity, experience, wisdom and presence of mind to safely work around truly hazardous equipment.

This regulation is highly effective in ensuring that agricultural employers do not place minors in truly hazardous situations. All hazardous occupations in this regulation are demonstrable and proven hazards, even for adults. This regulation is essential in focusing society’s attention to the fact that while minors may work at many jobs at age fourteen, and may work at most jobs at age sixteen, certain occupations are so clearly dangerous, even to adults, that they should be only performed by mature adults.

This regulation is clearly written and easily understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation remain in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency’s determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

This regulation should have minimal economic impact on small businesses. The regulation also offers clarity and guidance for small businesses that employ minors to work on farms, gardens, and orchards.

Family impact

Please provide an analysis of the regulation’s impact on the institution of the family and family stability.

This regulation should have a positive impact on the family and on family stability. The provisions of this regulation will help parents by protecting the health, safety, and welfare of working minors in Virginia. In addition, this regulation strengthens the authority of parents by prohibiting employers from placing minor age children in dangerous occupations while they are working on farms, in gardens or in orchards.